

# Seeking Justice

MAY 2011

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## Letter from Lake County State's Attorney Michael J. Waller

Lake County Drug Court began operation in July of 2005. The population targets high-risk, drug-addicted, and non-violent probation eligible offenders. The 30-month program is difficult to complete, and many of the participants have been to prison before.

Since its inception, 25 participants have graduated, 20 participants have left the program and there are currently 26 active participants.

The State's Attorney's Office has been involved with Drug Court from its inception, through the planning process and as part of the Drug Court team since it became operational.

Serving on the Drug court team is a unique experience for an Assistant State's Attorney. Instead of being in

an adversarial relationship with the offender, the ASA finds herself as part of a group which is charged with helping a person deal with a serious drug problem and successfully complete a very difficult program.

The ASAs who have worked in Drug Court have overcome their initial skepticism and have found the experience to be rewarding.

A Drug Court graduation is truly an occasion for celebration. The ceremony celebrates the redemption of individuals who have transformed themselves from the ravages of addiction to being productive members of society.

At the ceremony, the graduates give heartfelt speeches in which they thank the Drug Court team and often the police officers who arrested them. They



have come to realize that their arrests have truly saved their lives.

Many of us who have worked in the system for a long time can become cynical. Attending a Drug Court graduation makes me realize that what we do really makes a difference.

I encourage all of you to take the time to attend a future Drug Court graduation.

—Michael J. Waller  
Lake County  
State's Attorney



See Drug Court Graduation Photos on the Last Page

## Softly, but with a Big Stick— How Experience, Relevance, Washington, and Waukegan Connected

by Stephen J. Rice, ASA, Civil Division

Two minutes into my conversation with Jeff Pavletic, I was reminded of President Theodore Roosevelt's mantra, "Speak softly and carry a big stick; you will go far." An hour into our conversation, that mantra resounded in many respects.

In its metaphorical sense, Pavletic's personality embraces the "speaks

softly" (metaphors aside, his voice is otherwise perfectly loud). You can tell that he does not enjoy talking about himself—he finds it unnatural and uncomfortable.

On the other hand, he doesn't have to say anything for you to realize that this is a man who carries a big stick. He's the Chief Deputy (often referred to as the First Assistant) in the criminal division of the third largest county in Illinois—a state that, until just recently, still meted out the world's supreme sentence, the death penalty. By virtue of his position and experience, he is involved in all of the major prosecutions in the State's Attorney's Office.

Pavletic's position in the State's Attorney's Office substantiates the conclusion that "you will go far." But in fact, Pavletic has gone far in both the literal and figurative sense of the word, for his career as a prosecutor took him literally out of Lake County and onto the international stage.

The names of some of the actors on that international stage will ring familiar, even though over a decade has passed: Paula Jones; Linda Tripp; Monika Lewinsky; William Jefferson Clinton. Enter, stage right, Pavletic, who served as Special Counsel to the Judiciary Committee in the U.S. House of Representatives from April 1998 to April 1999. Needless to say, that is not a job you find posted on Monster.com, and Pavletic came into the position in an interesting way.



### Experience

Over ten years since it occurred, it is easy to forget what lay at the root of the whole Clinton affair. Ultimately, as is common in investigations that occur in the political realm, the legal issue focused not on the initial dirty deed. Rather, the issue became the dirty doer's lies about the dirty deed. (See *also* Blagojevich, Rod; Libby, Scooter). In Clinton's case, those deeds were Clinton's serial philandering, which came to light during his presidency in Paula Jones's sexual harassment lawsuit. Clinton was deposed in that lawsuit, and he denied "sexual relations" with Lewinsky—a denial that resulted in his impeachment for perjury and obstructing justice.

Long before Pavletic ever heard the name Lewinsky, he helped pioneer the legal cause of action for perjury in Illinois. In 1992, Pavletic tried the case of Lloyd Davis, who ran a church with offices in Waukegan and San Diego, California, among other locations. Alongside whatever fellowship Davis was conducting, he was also engaged in the criminal sexual assault of teenage Mexican boys, whom he would introduce into the church in San Diego and then bring to Waukegan.

Davis was convicted and sentenced to 31 years in prison for the sex charges—convictions affirmed on appeal. *People v. Davis*, 164 Ill. App. 3d 176 (2d Dist. 1994). However, separately, Pavletic had charged Davis with perjury, and a second appeal related to that charge, which was dismissed in the trial court.

The perjury allegations arose from the following circumstances. Before Davis's prosecution, he had sued the Waukegan News-Sun for an article that detailed some of his sexual activities. That lawsuit settled, but not before he was deposed in it. Later, as part of Davis's criminal prosecution, one of the questions became: Could he be tried for perjury based on the statements he made under oath—at his deposition—in that civil action?

In the trial court, Judge Starck dismissed the perjury charges based on a 1978 appellate precedent, and the appellate court affirmed him based on that same case. The appellate court reasoned

## Lyn Fuerst: The Genuine Article

by Marc Bangser, ASA, Felony Review Division

Being a supervisor is akin to an adult version of a school principal: Dealing with infractions, evaluating others and trying to sort out the numerous personalities and idiosyncrasies of a diverse and eclectic staff – all the while trying to maintain a professional and courteous relationship with those around you. This was a precarious balance that Lynette (Lyn) Fuerst, the former and first Chief Deputy of Administration in the Lake County State's Attorney's Office, knew all too well during her time here. "There were budget issues, personnel decisions, time management sessions, issues between co-workers... it was a tough job but I was definitely up to the challenge."

Fuerst grew up and attended high school in North Chicago, during which time came her first foray into the legal community. During her junior and senior years of high school, she participated part-time through the school's work program, preparing documents for real estate closings for Harvey Smith, a retired Chicago Title and Trust real estate attorney, located in Waukegan. While working for Smith, she met some individuals that would play a major role in her life: future State's Attorney Michael Waller, future State' Attorney and Circuit Judge Fred Foreman and future Circuit Judge Jane Waller. "She was very professional and had excellent skills that she brought to the support staff position. She was very efficient and very organized, which in time led her to the well-earned administrative position," State's Attorney Waller said. Fuerst recalled that time fondly, commenting that she "liked the structure of real estate

law and how much it applied to every area of my life, including estate work and involvement with banks."

After completing high school, Lyn was hired by Abbott Laboratories as a medical secretary and continued her work as a private sector legal secretary, leaving after a short time to join the Westinghouse Nuclear Training Center in Zion as a full-time administrative assistant. In 1979 and throughout the country during the post-Three Mile Island era, there was a large demand for training programs at nuclear plants. This demand led to a joint venture with Commonwealth Edison and Westinghouse where Fuerst acted as the administrative assistant to the training manager. "There were about 60 nuclear engineers and around six support staff employees, designing training programs for the nuclear plants throughout the world. We were off-site but still close to the nuclear power plant and had a small reactor in our building!"

After branching out with the Westinghouse project, Lyn returned to the legal community in 1988 and joined her former office-mate, then Chief Deputy Waller, as his executive legal secretary in the Criminal Division. "Working on criminal cases was different from the private sector work on estates, wills, trusts, banking, domestic law, real estate," Fuerst explained. "I had so much to learn about the criminal case process." Bringing Fuerst on in 1988 to assist him with his Chief Deputy duties was a no-brainer as far as Waller was concerned, stating that Fuerst was "dedicated, hardworking and



always professional – an easy decision on who I wanted to work with and knew would be a great fit for the office."

While unthinkable in today's technologically advanced and reliant world, there were 12 total computers in the State's Attorney's Office when Fuerst arrived in 1988. The first version of case management software (i.e., the great-grandfather of SAMS) was RAPS – the Rapid Automated Prosecution System. As to be expected, there were a few kinks to work out. "On the desks of each support staff member there would be a computer on a swivel that the support staff had to share with each other. It got to the point where your work day would be planned around sharing these computers! There was no voicemail and four or six giant 'brick' cell phones for the entire office."

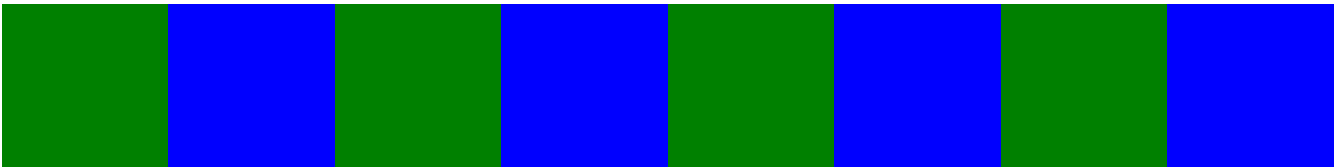
Fuerst continued page 10

## Lake County Children's Advocacy Center Awards

The Annual Children's Advocacy Center (CAC) Open House was held December 15, 2010. The event was well attended by State's Attorney's Office staff and fellow criminal justice colleagues. Guests enjoyed a buffet luncheon followed by the annual awards ceremony. The CAC is committed to providing a safe environment for child victims of abuse and is dedicated to approaching victims of child abuse in a sensitive and respectful manner. Since 1990, the CAC has hosted the luncheon to recognize individuals and organizations that have demonstrated a commitment to the children of Lake County and support the mission of the CAC. Awards are presented to those who have shown an ongoing commitment to improving the lives of children and have demonstrated the highest standards of professionalism.



The **Incredible Kids Award** is presented to a child or young adult who has shown extraordinary generosity and compassion for children who have visited the CAC. The 2010 recipient of the Incredible Kids Award was a group of amazing middle school students from Hillcrest Middle School. The students from Ms. Flanigan and Ms. Kline's team provided goody bags for children to use while waiting to testify in court. (Pictured are the teachers with State's Attorney Michael Waller)



The **Fred L. Foreman Award** is given to an individual in the criminal justice system who has demonstrated their commitment to the children of Lake County through their significant efforts and support. The award was presented to Bodie Haxall, former Lake County Assistant State's Attorney, in recognition of his strong prosecutorial skills matched with a great ability to interact with families. While in the office, Bodie was a team player who understood the multidisciplinary approach and involved police officers, victim advocates and families when prosecuting cases. In 1990, the Honorable Fred L. Foreman was the first recipient of the award.



*Assistant US Attorney Bodie Haxall is pictured on the left with the Honorable Fred Foreman and State's Attorney Michael Waller. On the right, Haxall is pictured with the Laura Notson, Director of the Children's Advocacy Center.*



## CAC Awards continued from previous page



*Phil Stevenson with State's Attorney Waller.*



*Sharon Dimitrejevich  
with State's Attorney Waller.*

The **Community Support Award** is presented to an individual or organization that has proven their dedication to the efforts of the CAC. For 2010, the CAC recognized two individuals and one organization. Phil Stevenson was recognized as a CAC board member, who also held the office of the treasurer from 1999 through 2010. He spent countless hours maintaining the CAC's financial documents and has always supported the efforts of the CAC. The Juvenile Officer's Association has been a long time supporter of the CAC. Over the years, they have provided financial support to many of the CAC's events and programs. Most recently, JOA sponsored a fundraiser bike ride with proceeds benefitting the CAC and Zacharias Center.

Sharon Dimitrejevich was recognized as the first SANE nurse and Pediatric SANE in Lake County. She has provided many forensic medical exams for children and adults and is always willing to assist in any way possible. Sharon has testified as an expert in many child sexual abuse cases and provides training for local and statewide organizations based upon her expertise.



*Pictured from left to right:  
Matt Baumann, Wendell Russell, Tim  
Ives and Lake County State's Attorney  
Michael J. Waller*

## CAC Awards continued from previous page



Dean Kharasch with State's Attorney Waller



The Honorable Daniel B. Shanes (left) and the Honorable James Boras (right) with Dean Kharasch.

The **Law Enforcement Award** is presented to an individual in the criminal justice system that has demonstrated the highest standards of professionalism and has consistently shown a willingness to cooperate with the Lake County Children's Advocacy Center. The 2010 award was given to Dean Kharasch, lead investigator for the Lake County State's Attorney's Office Cyber Crime unit. In addition to the support and expertise he provides for law enforcement, he provides internet and cell phone safety training for children, teens and parents. He consistently demonstrates a commitment to child protection and victims' rights.

*Don't forget the 2nd Annual  
Champions 4 Children Walk  
on May 14, 2011. For more  
information visit:  
[www.lakecountyil.gov/  
statesattorney](http://www.lakecountyil.gov/statesattorney)*

## 7<sup>th</sup> Annual Lake County High School Mock Trial Invitational

The 7<sup>th</sup> Annual Lake County High School Mock Trial Invitational, sponsored by the Lake County Law-Related Education Initiative, the Lake County Juvenile Officers Association and the Lake County Bar Association, was held at the Courthouse on January 29, 2011. The empty hallways and courtrooms came alive early that morning as high school students from Lake County and surrounding suburbs gathered to compete against one another to gain top honors as the best competitive mock trial team in northern Illinois. The major planners responsible for the event included Chief Judge Victoria Rossetti, Lake County Assistant State's Attorney Christen Bishop, and Mundelein High School teacher Stacey Gorman.

The high schools participating in this year's invitational included

Carmel Catholic, Chicago Christian, Deerfield, Evanston, Highland Park, Lake Forest Academy, Libertyville, Morgan Park, Mundelein, St. Charles East, St. Charles North, Wheaton Academy, and York.

Lake County sitting judges Luis Berrones, Michael Betar, Margaret Marcouiller, Christopher Morozin, Veronica O'Malley, George Strickland, Christopher Stride, and Donna-Jo Vorderstrasse presided over the trials, while several assistant state's attorneys, assistant public defenders and private practitioners volunteered their time to serve as evaluators. Local attorneys and judges also volunteered their time with individual teams as coaches (Circuit Judge Mark Levitt, ASAs Fred Day, Rod Drobinski, and Jim Newman, and former ASA Jeff Nutschnig).

In the mock trial competition, students played the roles of attorneys and witnesses in a mock trial problem drafted by the Illinois State Bar Association. After each school participated in two trials, everyone gathered for the awards ceremony where the top student performers were recognized as outstanding attorneys and witnesses. Rick Lesser, Chair of the Lake County Bar Association Foundation, and Mark Peavey, Chair of the Bar's Awards Committee, made a special announcement -- the Bar Foundation (a long-standing sponsor of the program) awarded the winning school \$250.00 to help defray some of the expenses associated with the state competition in Springfield, Illinois. This year's first place winner was St. Charles East High School, followed by Mundelein High School in second place and Morgan Park Academy in third place.



*The Carmel Mock Trial Team with coaches Rod Drobinski, ASA in the Drug Division, and former ASA Jeff Nutschnig*

## National College Mock Trial Tournament

by Ari Fisz, ASA, Felony Division

From March 11 through March 13, 2011, the Lake County Courthouse once again hosted a national college mock trial tournament. The Courthouse has been hosting this annual tournament since 2003. In the last few years, our Courthouse has been one of the sites for what is known as the Opening Round Championship Tournament ("ORCS"). There are only 8 ORCS in the country each year, and Waukegan is now one of the host sites.

There are over 250 universities which belong to the American Mock Trial Association, the governing body of college mock trial. These universities compete every February in Regional tournaments. If they do well enough, they qualify for one of the 8 ORCS. The top 6 teams from each of the 8 ORCS make up the 48 team field in the National Championship Tournament.

Among the 24 teams which attended the Waukegan ORCS

Tournament were Stanford University, University of Washington, University of California at Berkeley, Villanova University, Cornell University, University of Notre Dame, and Northwestern University. Some of these schools fielded more than one team. The top 6 finishers at our tournament were: (1) Cal-Berkeley; (2) Northwestern; (3) Notre Dame; (4) Cal-Berkeley; (5) Notre Dame; and (6) Washington.

## New Employees



*Two new employees joined the Lake County State's Attorney's Office Child Support Division. Susan Goetz, pictured far left, replaced Carol Gudbrandsen who joined the Cyber Crimes Division. Suzanne Salwzwedel, pictured near left, is the new ASA in the Child Support Division.*

*Three new Assistant State's Attorneys joined the Traffic Division. Tyler Dyson (left), Neta Sazonov (center), and Kyle Dodd (right) were all part of the State's Attorney's Office internship program and now join the office as attorneys.*



# Felony Trials

by Patricia Fix, ASA, Chief Felony Trial Division

## People v. Joseph Murray, 10 CF 88

Jury Verdict: Guilty - First Degree Murder

Assistant State's Attorneys: Ken LaRue and Fred Day

Defense Attorney: Lou Pissios

Counselor: Margie Garcia

Judge George Bridges

The defendant shot Curtis Pride Jr. on January 1, 2010, when he learned his girlfriend cheated on him with the victim while the defendant was in DOC. The victim's 13-year-old son testified he observed the defendant come into their apartment building on the day of the murder. Another witness, Javon Bettis, witnessed the murder but was a hostile witness. She appeared pursuant to subpoena during jury selection; however, the defendant called her from the jail to yell at her for appearing. The State subsequently obtained the recorded call from the defendant to Bettis and moved to admit Bettis' statement. During the hearing to admit the call, Bettis appeared again in court. Bettis denied most of her videotaped statement but did admit to receiving the phone call from the defendant. Pathologist Dr. Montez testified to stippling on the victim providing distance and context to the three gunshot wounds. Kelly Lawrence from the Northern Illinois Crime Lab testified regarding the defendant's DNA on the hat found at the murder scene. The defendant has not yet been sentenced, as he has other matters pending.

## People v. Robert Bunch, 09 CF 2452

Jury Verdict: Guilty - First Degree Murder

Assistant State's Attorneys: Ken LaRue and Matt DeMartini

Defense Attorneys Jim Schwartzbach and Lawrence Wade

Counselor Margie Garcia

Judge George Bridges

Co-defendant Lorenzo White was in custody on unrelated charges and wanted to sell a PlayStation being held by his brother so he could generate money for his pending case. At the trial, evidence was introduced of

phone calls made by Lorenzo White from the jail requesting the PlayStation be sold, as well as phone calls where Lorenzo White called Robert Bunch because his brother would not sell the PlayStation and told Bunch to "go take care of his brother for him." Bunch agreed. Evidence was introduced of White calling his girlfriend to plan how Bunch was going to get into the building. Bunch arrived with two masked people and entered the apartment of White's mother, displaying a gun and demanding the electronics. The brother ran to help his mother. As he ran into the room, he was shot twice in the torso. The prosecution granted "Use Immunity" to the girlfriend to testify and obtained a body attachment for the victim's mother to testify. The co-defendant, White, initially refused to testify, but later authenticated and identified the voices on the jail calls. The defense introduced an alibi defense which was contradicted in rebuttal by phone records of the defendant. The defendant was subsequently sentenced to 38 years in the Illinois Department of Corrections, where he will serve 100% of the sentence.

## People v. Juan Garza, 09 CF 3530

## People v. Iris Chagoya, 09 CF 3529

Jury Verdict: Guilty - Agg UUW

Assistant State's Attorney: Victor O'Block

Defense Attorneys: Kevin Rosner and Scott Spaulding

Judge Daniel Shanes

The Waukegan NET Unit was on patrol when they observed the defendant, Juan Garza, driving an SUV with the co-defendant, Iris Chagoya, in the passenger seat. Through prior contacts, the detectives knew that Garza's driver's license was revoked. The NET detectives followed the vehicle observing other traffic violations, as well as nervous glances from defendant, Garza, back toward the detectives. The detectives made a traffic stop in which they noticed both defendants make furtive movements toward the center console of the vehicle. When they looked in the vehicle at the center console, they found a black t-shirt covering up a .45 caliber semi-automatic handgun. The

handle of the gun was facing towards the driver, Garza. The gun was loaded and the safety was off. Defendant Chagoya owned the vehicle. Defendant Garza had several priors, including an Aggravated Discharge of a Firearm, UUW, and UUW by Felon. Defendant Garza had no priors.

## People v. Mardese Gilbert, 08 CF 4485

Jury Verdict: Guilty - Residential Burglary

Assistant State's Attorney: Ryan Koehl

Defense Attorney: Sharmila Manak

Judge Christopher Stride

Evidence was introduced that the defendant broke into the victim's attached garage to steal property to sell to generate money to purchase alcohol. The defendant was arrested at the scene, and gave a post-Miranda statement indicating that his intent was to steal because he needed money to buy alcohol.

## People v. Derrick Williams, 09 CF 338

Jury Trial: Guilty - Aggravated Kidnapping and Attempt Aggravated Criminal Sexual Assault

Assistant State's Attorney: Reggie Mathews

Defense Attorney: Pro se

Counselor: Margie Garcia

Judge Fred Foreman

Evidence was introduced that the defendant accosted a woman as she walked along 10<sup>th</sup> and 11<sup>th</sup> street in North Chicago. The victim testified that the defendant grabbed her, punched her and knocked her to the ground and demanded that she have sex with him. The defendant then pulled out a knife and stabbed her in the back. The victim managed to escape and cry out for help while the defendant fled. At sentencing, the defendant threatened the Assistant State's Attorney and received the maximum 30 year sentence in the Illinois Department of Corrections.

### Fuerst continued from page 3

With an increasing caseload and the support staff struggling to keep up with the work, it became apparent to the powers-that-be that, a) there needed to be a strong voice on behalf of the support staff that could assist with the planning and execution of interoffice programs, and b) Fuerst was too bright and valuable to keep at her current position. So in 1991 Fuerst was promoted to office manager/Principal Executive and helped with decisions involving employee supervision, payroll and finance, human resources and technology management. "She had every trait and characteristic anybody could want in an administrator; she had technical skills, excellent communication and interpersonal skills and she knew how to resolve problems," Judge Foreman said. "In each of her positions, she handled all matters discreetly and with professionalism."

The office manager position morphed into a title for Fuerst that many felt was overdue – Chief Deputy. Named the first Chief Deputy of Administration in 1998, Fuerst was officially in charge of all the support staff, among other things. "That took the most adjusting, becoming a supervisor for friends that I had come up the ranks with," Fuerst answered. Despite her logistical concerns Fuerst handled complicated and tense situations with her usual ease and aplomb. "Lyn was definitely the voice for the support staff, the go-to person," Records Supervisor Pajet Rollins recalled. "She really solidified that role and was an amazing liaison between the support staff and the other heads of departments." The current Chief Deputy of Administration, Teri White, who took over when Fuerst left the office in 2006, concurred, stating, "Lyn epitomized professionalism and consistently handled the pressures to her position with understanding, compassion and diligence. She pulled off a very difficult task in that she managed to be your friend while still exuding the authority needed to be a supervisor."

During Fuerst's tenure as office

manager and Chief Deputy of Administration, one of most daunting tasks facing the county was keeping up with the technological boom and development of the internet and cell phones. Working with the State's Attorney and county officials, Fuerst facilitated the addition of 36 computers in 1997 and the installation of the now-antiquated word processing and case system on one of the new desktops. The year 1997 also marked an important time in the State's Attorney's Office history – the hiring of Steve Finley as the first User Liaison. Fuerst was the office manager at the time and commented on the need for such a position: "With the installation of so much equipment and new software systems, a technology specialist was very much needed. We were specifically looking for not just a tech person, but also an attorney that would be a helpful outlet for the Assistants." The User Liaison became responsible for all the technology in the office including computers, email, printers, faxes, phones/voicemail, pagers, cell phones and legal research systems, along with technology training for the staff. "To show the difference in numbers between then and now, the office has approximately 120 desktop computers, 20 laptop computers, 20 printers, 10 fax machines, 20 cell phones and 17 Blackberries! It's just a different type of world out there from when I first started and we needed to adapt," Fuerst exclaimed.

Those that were front and center during the start of Fuerst's career agreed, with Judge Foreman recalling, "When Lyn first started working, she had an old-fashioned typewriter, not even an electric one! You had to type your own documents on carbon paper, and when Lyn started in the office in 1988, we had a Xerox machine, but no computers. Support staff took correspondence almost exclusively by hand – Lyn was crucial in bringing the State's Attorney's Office into 21<sup>st</sup>-century technology." State's Attorney Waller concurred, stating, "Lyn was instrumental in bringing us into the future

- there was a quantum leap of improvement while she was in the office."

One of Fuerst's highest achievements was serving on the committee to implement BOSS (Back Office Solution System) throughout the county. "In 2004, we finally launched BOSS as an integrated finance system that automated payroll, time reporting, benefit tracking, personnel forms, budgets, accounts payable/receivable, and purchasing. "Prior to BOSS, people were entering this information by hand and it was extremely cumbersome," Fuerst stated. White explained further, saying, "It was rough in the beginning but Lyn kept us going - she always had a very positive attitude about the march to the finish line! Prior to BOSS, we would get an invoice and it all had to be processed on paper through the Finance Department. Now, because of BOSS and those that worked hard to construct it, with Lyn at the forefront, we have so much more access to invoices and other personnel paperwork."

But to listen to those that worked most closely with Fuerst, her greatest accomplishment while in the office was to bring a level of respect to the support staff position that was lacking prior to her ascendance up the ranks. "Because of Lyn's expectations, she made sure we were never looked at as 'just a secretary' – she always pushed for additional career path training," Rollins explained. "She always wanted people to take classes, engage in computer training and even designed in-house sessions that were geared towards support staff and supervisors. She was a true advocate for education and pushed for many secretaries to go back to school - quite a few of us went through the college course program that she did - Lyn wanted everyone to have their degree." White agreed, stating, "It was intimidating to follow in Lyn's footsteps because of what she brought to the Chief Deputy of Administration position: An unrelenting desire to improve the support staff and the office as a whole."

## Pavletic continued from page 2

that the perjury statute (720 ILCS 5/32-2), which required false statements to be “material to the issue or point in question,” additionally required the trier of fact to be in a position to be influenced by the statements. In the trial court on the perjury charge before Judge Starck, Judge Stephen Walter had been called as a witness to establish whether he had ever relied on the alleged perjury in making any rulings in the defamation case. He had not, and the defamation case was never otherwise presented to a fact finder, because it settled. Accordingly, Judge Starck and the appellate court both held that the perjury charges must be dismissed.

Further appeal was taken to the Illinois Supreme Court. In a short majority opinion followed by a longer concurrence and then a dissent, the Court held that the statute did not require the alleged perjury to have been presented to a trier of fact. Quite simply, such presentment was not a requirement contained in the text of the statute itself. Therefore, the perjury prosecution could go forward.

### Relevance

Pavletic’s experience in the Davis case was directly relevant to the Clinton matter, because Clinton was also accused of lying under oath at a deposition in a civil lawsuit, namely the Paula Jones lawsuit. In that lawsuit, Clinton denied having “ever had sexual relations with Monica Lewinsky . . . .” Pavletic describes his role in the Clinton affair to be “the most surreal professional experience he’ll ever have,” and recounting the story of that experience makes that statement unquestionably true.

In 1994, Ken Starr was appointed as Independent Counsel to continue an investigation into the Clinton’s Whitewater real estate dealings. Pavletic notes that Starr’s investigation was a separate process from the one Pavletic was involved with. Nevertheless, Starr’s investigation set the first domino in motion, and it eventually toppled from Whitewater into other subjects. One of those sub-

jects—Jones’s sexual harassment claim—unearthed Clinton’s lies about Lewinsky.

Pavletic explains that the Independent Counsel only had authority to proceed so far in his investigation—under the Constitution, impeachment is a process relegated to Congress itself. As Pavletic describes it, once the investigation reached a certain threshold, it then had to be turned over to the House of Representatives. That body, in turn, referred it to the Judiciary Committee, which put together a team to perform the necessary work.

Henry Hyde was the Chairman of the House Judiciary Committee, and Hyde appointed Chicago

attorney David Schippers to be Chief Investigative Counsel. Hyde and Schippers were friends due to their prosecutorial and litigation careers, as well as through church activities they shared.

Pavletic knew neither Hyde nor Schippers, but he did know Schippers’s son, now-Judge Tom Schippers, from their time shared in the Lake County State’s Attorney’s Office. Judge Schippers recounts that he knew Pavletic more through reputation than personally, but what he knew was enough to recommend him: Pavletic always conducted himself as a consummate professional, and he had the proven trial skills to meet this historic challenge. Essentially, as Judge Schippers summarizes, Pavletic was a person he could recommend to his father as someone who would not “screw things up in Washington.”

Pavletic recounts that Tom, who was in private practice at the time, called him with the secret news that his father was going to be hired to be the special counsel for the House of Representatives. Tom wanted to know if Pavletic would be interested in joining the team his father was creating, and Pavletic said yes.



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### Pavletic continued from previous page

After some initial vetting—including a meeting at the Olive Garden in Vernon Hills—Dave Schippers indicated he wanted Pavletic as part of his team, but the final OK had to come from Hyde himself. So, in February 1998, a team of 14 individuals—roughly half attorneys, half federal investigators—assembled at the Hilton at O'Hare and were taken up to a suite in which Hyde was waiting. Hyde educated them on the process, and by April of that year, Dave Schippers and his team went to Washington to begin its work.

The surreal nature of this experience must have been present for Pavletic from the get-go. Although attorneys are professional secret-keepers, Pavletic relates that after Tom told him a team was being formed, he had to sit on that information for what must have seemed like an eternity (it was in fact several months). From Tom's call, to the vetting in Vernon Hills, to the O'Hare appointment, Pavletic was poised to take part in a process that had been making international news for years. And while that news might have slipped onto the back pages when it wasn't salacious, the start of the House's impeachment machinery would bring it quickly back to the fore.

Armed with the knowledge yet still sworn to secrecy even after the O'Hare meeting, Pavletic requested permission to speak with Mike Waller so that he could facilitate an orderly transition in the State's Attorney's Office. Hyde permitted that one contact. Thus it came that starting April 1998, Waller allowed Pavletic to take a leave-of-absence, and Pavletic went to Washington, D.C.

### Washington

Pavletic's description of his year in Washington is a mixture of the surreal and the familiar. What rings familiar in his story is that in many respects, he and his team were building a case like attorneys across the United States build cases every day. That is: they were reviewing documents; interviewing witnesses; preparing depositions; corroborating facts; researching legal issues; and, ultimately, presenting their case.

But to say that the Clinton case had aspects to it that are found in an ordinary case understates the point, almost like saying that the wind blows dur-



*David Schippers (left) and Jeff Pavletic (right) watch the deposition of then President William Clinton.*

ing a hurricane. Indeed, working on the case against Clinton must have been like sitting in the very eye of a hurricane—yes, there is wind, but **HOLY COW!**

Schippers's team did most of its work at the Ford House Office Building, where an entire wing was blocked off for the team's use. Across from the team's bank of offices was a large conference room that contained masses of documents. In fact, there were two locked conference rooms with identical sets of documents: one for Democrats, and one for Republicans.

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Pavletic explains that for the Democrats in the House, the Clinton impeachment was never about the facts (understandably so, since the facts were so bad for Clinton that they required legalistic locutions such as his famous “it depends on what the meaning of the word ‘is’ is”). Thus, while the Republican conference room was a hive of constant activity, the Democrats’ parallel room was basically as dead as a wasp’s nest in winter. For the Democrats, the case for Clinton was legal, functionally identical to a motion for summary judgment: “we stipulate to the facts, judge, but we’re nevertheless entitled to judgment as a matter of law.”

Pavletic and his team members worked on preparing the case against Clinton and eventually presented it to the Judiciary Committee twice. In his office, Pavletic has a picture of Dave Schippers and himself at one of those presentations, and behind them is a huge screen on which Clinton appears with the tagline “Deposition” across the bottom. On December 19, 1998, the full House of Representatives impeached Clinton on two of the four Articles of Impeachment presented to it.



Jeff Pavletic (left) and Thomas Schippers (right), who has since become an Associate Judge in the 19th Judicial Circuit.

Pavletic flew home for the holidays that year, but on the day after Christmas, Schippers called to tell him that the Senate’s Rules Committee wanted to meet the next day to discuss what rules would govern Clinton’s trial in the Senate. That trial would determine whether Clinton would be removed from office.

Now the surreality of the proceedings came into full bloom, because as Pavletic explains, the Senators—regardless of party affiliation—were loath to move forward with impeachment. Clinton was a popular politician, and the Democrats had gained House seats in each of the previous two mid-term elections, including the recent November 1998 mid-terms. (The impeachment proceedings took place in Congress’s lame-duck session after that election). Although the Senate was compelled to move forward with the trial, the Senators conveyed their disdain through rules designed to make the process unwieldy.

Pavletic explains that although presidential impeachment has been rare, non-presidential impeachment is less so, and there is a well-established body of rules governing such proceedings. The Senators quickly made clear they were dispensing with that body of law, however, and began crafting their own peculiar system.

And so there was the rule that no live witnesses would be allowed. All testimony would occur by video. Paradoxically, no video screens would be allowed in the Senate chamber (a rule eventually abandoned, for obvious reasons). The number of witnesses was limited to four, no more. If video screens were used for testimony, then they must be covered in black velvet when not in use; if easels were used for exhibits, the easels must match the cherrywood of the Senate chamber. Cameras in the chamber must focus only on the speaker and not rove about the room. Dave Schippers was to be lead counsel, but he would not be allowed to argue the case. Rather, the Managers, which is what the lead Congresspeople were called during these proceedings, would argue the case to preserve the “institutional sentiment” of the Senate.

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Listening to Pavletic describe the team's preparation for the Senate trial makes clear that his experience as a seasoned prosecutor—even apart from the perjury prosecution in the Lloyd Davis case—provided a useful skillset. Pavletic took part in the depositions of Lewinsky and Vernon Jordan, the video of which was used in the trial. Just as in a more typical case, the team had to deal with the vagaries of witness memory and witness veracity.

In particular, Lewinsky had given countless contradictory accounts in her various statements to investigators, so it was important in preparing her testimony that the questioner (one of the Managers) focus on facts that could be independently corroborated. As just one example, Lewinsky's statement that she was alone with Clinton while he was on the phone could be corroborated by White House phone records. And so the preparation ensued: with their list of critical topics, the team looked for discrepancies, then looked for corroboration, and finally put together the deposition outline based on reliable statements.

Ultimately, the trial in the Senate moved at a lightning pace that was clearly intended to *get it over with*. The videotaped depositions occurred between February 1-3; on February 6, excerpts from the videos were played to the Senate; on February 8, the Managers made closing arguments; the Senate then deliberated in private until February 12, at which time the Senators voted. The vote, which was closely but not strictly along party lines, failed to muster the two-thirds majority required to remove a president from office.

**Waukegan**

By April 1999, Pavletic had wrapped up his involvement in the proceedings and returned to the State's Attorney's Office. He'll have been in the office for 27 years as of May 7. Twenty-seven years of speaking softly, carrying a big stick, and, unquestionably, going far.

**Good Luck and Farewell**

Good luck and farewell to Don Tyer, Constance Palas, and Hector Jimenez (Hector pictured with Irene Curran, Chief of the Child Support Division) .



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—Michael J. Waller  
Lake County State's Attorney

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## Drug Court Graduation Photos



Elizabeth Johnson, a Drug Court graduate in Will County, IL gives a moving speech during the graduation (left).

Johnson pictured below with the Honorable John Phillips (left), who presides over the Lake County Drug Court, and State's Attorney Waller (right).



If you have story or content ideas or would like to help with the newsletter, please contact Carrie Flanigan at:  
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